

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1338 of 2022

Rebati Behera

....

Petitioner

Mr.Amitav Tripathy, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr.P.K. Rout, AGA

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

20.09.2022

Order No.

03.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. In the present petition, the petitioner invoking the jurisdiction under Section 482 Cr.P.C. approached this Court for quashing of the criminal proceeding in connection with G.R. Case No.384 of 2017 arising out of Khandapada P.S. Case No.234 of 2017, pending in the court of learned J.M.F.C., Khandapada on the grounds stated therein.
3. Perused the copy of the FIR at Annexure-1, copy of the charge-sheet at Annexure-2 and copy of impugned order as at Annexure-3 respectively.
4. Learned counsel for the petitioner submits that learned court below vide its order dated 2nd July, 2018 taken cognizance against the petitioner under Sections 498-A/294/323/324/307/494/506/109/34 IPC without any basis and justification and pass the impugned order under Annexure-3, which is not teneable in law, therefore the criminal proceeding is liable to be quashed.

5. On a bare reading of Annexure-3, this Court finds that the petitioner who alleged to be the second wife of principal accused has committed overt act against the opposite party No.2 and accordingly Khandapada P.S. Case No.234 of 2017 has been registered under Section 498-A along with other allied offences. According to the petitioner no offence under Section 498-A IPC is made out against the petitioner as she is not a family member of the informant nor any way related to the informant as such learned court below fell into serious error in taking cognizance of the same while passing the impugned order under Annexure-3 which is not sustainable in the eye of law.

6. Considering the nature of allegation made in the FIR and the fact that petitioner does not belong to the family members of the informant nor any way related to the informant, hence the offence under Section 498-A should not have been allowed and therefore the impugned order under Annexure-3 is not sustainable in law and accordingly the same is liable to be set aside. However, this Court finds that some mischief alleged against the petitioner, which needs an enquiry, संश्लेषित नयने

7. Accordingly, the CRLMC stands allowed to the extent indicated above.

8. Consequently the impugned order under Annexure-3 passed by the learned J.M.F.C., Khandapada in G.R. Case No.384 of 2017 arising out of Khandapada P.S. Case No.234 of 2017 stands set aside vis-à-vis the allegation under Section 498-A with respect to the petitioner.

9. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge